

## APPENDIX B – RCW 41.54

### Chapter 41.54 RCW PORTABILITY OF PUBLIC RETIREMENT BENEFITS

#### RCW SECTIONS

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#### RCW 41.54.010

##### **Definitions. (*Effective until July 1, 2006.*)**

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Base salary" means salaries or wages earned by a member of a system during a payroll period for personal services and includes wages and salaries deferred under provisions of the United States internal revenue code, but shall exclude overtime payments, nonmoney maintenance compensation, and lump sum payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, any form of severance pay, any bonus for voluntary retirement, any other form of leave, or any similar lump sum payment.

(2) "Department" means the department of retirement systems.

(3) "Director" means the director of the department of retirement systems.

(4) "Dual member" means a person who (a) is or becomes a member of a system on or after July 1, 1988, (b) has been a member of one or more other systems, and (c) has never been retired for service from a retirement system and is not receiving a disability retirement or disability leave benefit from any retirement system listed in RCW 41.50.030 or subsection (6) of this section.

(5) "Service" means the same as it may be defined in each respective system. For the purposes of RCW [41.54.030](#), military service granted under RCW 41.40.170(3) or 43.43.260 may only be based on service accrued under chapter 41.40 or 43.43 RCW, respectively.

(6) "System" means the retirement systems established under chapters 41.32, 41.40, 41.44, 41.35, and 43.43 RCW; plan 2 of the system established under chapter 41.26 RCW; and the city employee retirement systems for Seattle, Tacoma, and Spokane. The inclusion of an individual first class city system is subject to the procedure set forth in \*RCW [41.54.061](#).

**NOTES:**

**\*Reviser's note:** RCW [41.54.061](#) was decodified by 2003 c 295 § 11.

**Effective date -- 1998 c 341:** See RCW 41.35.901.

**Purpose -- 1993 c 517:** See note following RCW 41.26.420.

**RCW 41.54.010**

**Definitions. (Effective July 1, 2006.)**

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(6) "System" means the retirement systems established under chapters 41.32, 41.40, 41.44, 41.35, 41.37, and 43.43 RCW; plan 2 of the system established under chapter 41.26 RCW; and the city employee retirement systems for Seattle, Tacoma, and Spokane.

[2004 c 242 § 58; 1998 c 341 § 702; 1993 c 517 § 8; 1990 c 192 § 1; 1988 c 195 § 1; 1987 c 192 § 1.]

**NOTES:**

**Effective date -- 2004 c 242:** See RCW 41.37.901.

**Effective date -- 1998 c 341:** See RCW 41.35.901.

**Purpose -- 1993 c 517:** See note following RCW 41.26.420.

**RCW 41.54.020**

**Benefits under prior retirement systems -- Restoration of contributions.**

(1) Those persons who are dual members on or after July 1, 1988, shall not receive a retirement benefit from any prior system while dual members without the loss of all benefits under this chapter. Retroactive retirement in any prior system will cancel membership in any subsequent systems except as allowed under RCW 41.04.270 and will result in the refund of all employee and employer contributions made to such systems.

(2) If a member has withdrawn contributions from a prior system, the member may restore the contributions, together with interest since the date of withdrawal as determined by the system, and recover the service represented by the contributions. Such restoration must be completed within two years of establishing dual membership or prior to retirement, whichever occurs first.

(3) If a member does not meet the time limitation under subsection (2) of this section, the member, prior to retirement, may restore the service credit destroyed by the withdrawn contributions by paying the amount required under RCW 41.50.165(2).

(4) Any service accrued in one system by the member shall not accrue in any other system.

[1994 c 197 § 32; 1987 c 384 § 2; 1987 c 192 § 2.]

#### **NOTES:**

**Intent -- Severability -- Effective date -- 1994 c 197:** See notes following RCW 41.50.165.

**Effective dates -- 1987 c 384:** See note following RCW 41.40.150.

#### **RCW 41.54.030**

##### **Calculation of service retirement allowance.**

(1) A dual member may combine service in all systems for the purpose of:

- (a) Determining the member's eligibility to receive a service retirement allowance; and
- (b) Qualifying for a benefit under RCW 41.32.840(2), 41.35.620, or 41.40.790.

(2) A dual member who is eligible to retire under any system may elect to retire from all the member's systems and to receive service retirement allowances calculated as provided in this section. Each system shall calculate the allowance using its own criteria except that the member shall be allowed to substitute the member's base salary from any system as the compensation used in calculating the allowance.

(3) The service retirement allowances from a system which, but for this section, would not be allowed to be paid at this date based on the dual member's age may be received immediately or deferred to a later date. The allowances shall be actuarially adjusted from the earliest age upon which the combined service would have made such dual member eligible in that system.

(4) The service retirement eligibility requirements of RCW 41.40.180 shall apply to any dual member whose prior system is plan 1 of the public employees' retirement system established under chapter 41.40 RCW.

[2003 c 294 § 13; 1998 c 341 § 703. Prior: 1996 c 55 § 4; 1996 c 55 § 3; 1996 c 39 § 19; 1995 c 239 § 319; 1990 c 192 § 2; 1988 c 195 § 2; 1987 c 192 § 3.]

#### **NOTES:**

**Effective date -- 1998 c 341:** See RCW 41.35.901.

**Effective dates -- 1996 c 39:** See note following RCW 41.32.010.

**Intent -- Purpose -- 1995 c 239:** See note following RCW 41.32.831.

**Effective date -- Part and subchapter headings not law -- 1995 c 239:** See notes following RCW

41.32.005.

Benefits not contractual right until date specified: RCW 41.34.100.

**RCW 41.54.032**

**Calculation of disability retirement allowance.**

(1) If a dual member becomes disabled, the member's service in all systems may be combined for the sole purpose of determining the member's eligibility to receive a disability retirement allowance from the member's current system.

(2) The member's current system shall use its own criteria to:

(a) Determine the member's eligibility for a disability retirement allowance; and

(b) Calculate the disability retirement allowance based on service actually established in the current system. The member shall be allowed to substitute the member's base salary from any system as the compensation used in calculating the allowance.

(3) Subsections (1) and (2) of this section shall not apply to the member's prior system.

(4) A dual member who is eligible to receive a disability retirement under the current system may elect to receive a service retirement from all prior systems and to receive service retirement allowances calculated as provided in this section. Each system shall calculate the service retirement allowance using its own criteria except that the member shall be allowed to substitute the member's base salary from any system as the compensation used in calculating the service retirement allowance.

(5) The service retirement allowances from a system which, but for this section, would not be allowed to be paid at this date based on the dual member's age, may be received immediately or deferred to a later date. The allowances shall be actuarially adjusted from the earliest age upon which the combined service would have made such dual member eligible in that system.

(6) This section shall not apply to any disability benefit under:

(a) RCW 41.40.220; or

(b) The Washington state patrol retirement system established under chapter 43.43 RCW.

[1996 c 55 § 1.]

**RCW 41.54.034**

**Calculation of surviving spouse's death benefit.**

(1) If a dual member dies in service in any system, the member's service in all systems may be combined for the sole purpose of determining the surviving spouse's eligibility to receive a death benefit from each of the member's current and prior systems.

(2) Each system shall use its own criteria to:

(a) Determine the surviving spouse's eligibility for a death benefit; and

(b) Calculate the death benefit based on service actually established in that system.

(3) The surviving spouse shall receive the same benefit from each system that would have been received if the member were active in the system at the time of death. The spouse shall be allowed to substitute the member's base salary from any system as the compensation used in calculating the allowance.

(4) This section shall not apply to the Washington state patrol retirement system established under

chapter 43.43 RCW.

[1996 c 55 § 2.]

**RCW 41.54.040**

**Payment of retirement allowance and postretirement adjustments -- Death benefit. (Effective until July 1, 2006.)**

(1) The allowances calculated under RCW [41.54.030](#), [41.54.032](#), and [41.54.034](#) shall be paid separately by each respective current and prior system. Any deductions from such separate payments shall be according to the provisions of the respective systems.

(2) Postretirement adjustments, if any, shall be applied by the respective systems based on the payments made under subsection (1) of this section.

(3) The department shall adopt rules under chapter 34.05 RCW to ensure that where a dual member has service in a system established under chapter 41.32, 41.40, 41.44, 41.35, or 43.43 RCW; service in plan 2 of the system established under chapter 41.26 RCW; and service under the city employee retirement system for Seattle, Tacoma, or Spokane, the additional cost incurred as a result of the dual member receiving a benefit under this chapter shall be borne by the retirement system incurring the additional cost.

[1998 c 341 § 704; 1996 c 55 § 5. Prior: 1993 c 519 § 16; 1993 c 517 § 9; 1990 c 192 § 5; 1988 c 195 § 3; 1987 c 192 § 4.]

**NOTES:**

**Effective date -- 1998 c 341:** See RCW 41.35.901.

**Part headings not law -- Effective date -- 1993 c 519:** See notes following RCW 28A.400.212.

**Purpose -- 1993 c 517:** See note following RCW 41.26.420.

**RCW 41.54.040**

**Payment of retirement allowance and postretirement adjustments -- Death benefit. (Effective July 1, 2006.)**

(1) The allowances calculated under RCW [41.54.030](#), [41.54.032](#), and [41.54.034](#) shall be paid separately by each respective current and prior system. Any deductions from such separate payments shall be according to the provisions of the respective systems.

(2) Postretirement adjustments, if any, shall be applied by the respective systems based on the payments made under subsection (1) of this section.

(3) The department shall adopt rules under chapter 34.05 RCW to ensure that where a dual member has service in a system established under chapter 41.32, 41.40, 41.44, 41.35, 41.37, or 43.43 RCW; service in plan 2 of the system established under chapter 41.26 RCW; and service under the city employee retirement system for Seattle, Tacoma, or Spokane, the additional cost incurred as a result of the dual member receiving a benefit under this chapter shall be borne by the retirement system incurring the additional cost.

[2004 c 242 § 59; 1998 c 341 § 704; 1996 c 55 § 5. Prior: 1993 c 519 § 16; 1993 c 517 § 9; 1990 c 192 § 5; 1988 c 195 § 3; 1987 c 192 § 4.]

**NOTES:**

**Effective date -- 2004 c 242:** See RCW 41.37.901.

**Effective date -- 1998 c 341:** See RCW 41.35.901.

**Part headings not law -- Effective date -- 1993 c 519:** See notes following RCW 28A.400.212.

**Purpose -- 1993 c 517:** See note following RCW 41.26.420.

#### **RCW 41.54.070**

##### **Benefits under chapter -- Minimum and maximum.**

The benefit granted by this chapter shall not result in a total benefit less than would have been received absent such benefit. The total sum of the retirement allowances received under this chapter shall not exceed the largest amount the dual member would receive if all the service had been rendered in any one system. When calculating the maximum benefit a dual member would receive: (1) Military service granted under RCW 41.40.170(3) or 43.43.260 shall be based only on service accrued under chapter 41.40 or 43.43 RCW, respectively; and (2) the calculation shall be made assuming that the dual member did not defer any allowances pursuant to RCW [41.54.030](#)(3). When a dual member's combined retirement allowances would exceed the limitation imposed by this section, the allowances shall be reduced by the systems on a proportional basis, according to service.

[1996 c 55 § 6; 1988 c 195 § 4; 1987 c 192 § 7.]

#### **RCW 41.54.080**

##### **Benefits under chapter -- Contractual rights not established.**

The benefits provided under RCW [41.54.010](#) through [41.54.070](#) are not provided to employees as a matter of contractual right and the legislature retains the right to alter or abolish these benefits at any time prior to a member's retirement.

[1987 c 192 § 8.]

#### **RCW 41.54.090**

##### **Benefits under chapter -- Lump sum payment.**

(1) The systems may pay a dual member a lump sum payment in lieu of a monthly benefit if the initial monthly benefit computed in accordance with RCW [41.54.030](#) would be less than fifty dollars. The lump sum payment shall be the greater of the actuarial equivalent of such monthly benefits or an amount equal to the individual's accumulated contributions plus accrued interest.

(2) It is the intent of the legislature that any member who receives a settlement under this section shall be deemed to be retired from the system making the lump sum payment.

[1988 c 195 § 6.]

#### **RCW 41.54.100**

##### **Transfer of membership under chapter 341, Laws of 1998 -- Benefits not diminished.**

Persons who were members of the public employees' retirement system plan 2 prior to September 1, 2000, and were transferred or mandated into membership pursuant to chapter 341, Laws of 1998 shall suffer no diminution of benefits guaranteed to public employees' retirement system plan 2 members as of the date of

their change in membership.

[1998 c 341 § 705.]

**NOTES:**

**Effective date -- 1998 c 341:** See RCW 41.35.901.

**RCW 41.54.900**

**Effective dates -- 1987 c 192.**

(1) Section 5 of this act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect on July 1, 1987.

(2) The remainder of this act shall take effect on July 1, 1988.

[1987 c 192 § 11.]

**RCW 41.54.901**

**Effective date -- 1988 c 195.**

This act shall take effect July 1, 1988.

[1988 c 195 § 7.]